



Legislative Fact Sheet



SB 1310 Sentencing (LARA)

Summary:

SB 1310 provides that no crime with a possible sentence for up to a year shall be punishable by imprisonment exceeding 364 days.

Background:

California is home to the largest number of immigrants in the country, approximately 10 million people making up 27 percent of the state's population. The majority of immigrants, 73 percent, live in the state legally as naturalized citizens or under another legal status.

Legal immigrants have always been subject to deportation, if they commit specified crimes determined by federal statute. In 1996 Congress enacted the Illegal Immigration Reform and Immigration Responsibility Act, which expanded the list of crimes that a legal immigrant can be deported for to include an aggravated felony. Under immigration law, an aggravated felony is a term of art that can apply to crimes that are neither aggravated or a felony.

Under the U.S. Immigration and Nationality Act, aggravated felonies fall into two categories: specific crimes that federal law has determined trigger deportation and crimes that are deportable if the defendant receives a 365-day sentence, regardless of the time served. The time imposed by the court, irrespective of whether the time is suspended or not, is considered part of the sentence. As a result, a legal immigrant convicted of a crime and sentenced to 365 days with 362 days suspended, who served only 3 days in jail, would have a one year sentence as defined under federal law and face deportation.

Prior to 1996, legal immigrants had the opportunity to challenge their deportation before a judge. Currently, those deported have no legal way to reenter the U.S., even if they were legal residents

and have an American spouse. Washington, Nevada, and Illinois have all passed legislation to address this problem.

Problem:

As a result of the one year sentence deportation policy, thousands of families are torn apart every year due to minor crimes, such as writing a bad check. Those deported often leave behind families and children who depend on them for support. From 2010 through 2012 the U.S. Immigration and Customs Enforcement deported 204,000 immigrant parents from the U.S., which accounted for 23 percent of the total number of deportations during that time period. Many of those deported for minor offenses are longtime legal permanent residents of California, with deep connections to their families and communities.

Solution:

SB 1310 will reduce the maximum possible misdemeanor sentence from one year to 364 days, so that deportation eligibility will not be triggered for a legal immigrant who commits a misdemeanor punishable by imprisonment for one year.

This bill will not affect immigration enforcement and people who are in California unlawfully or have committed serious crimes will still face deportation. This bill will preserve judicial discretion and ensure legal residents who have committed minor crimes are not automatically subject to deportation and separated from their families.

Sponsors:

California Attorneys for Criminal Justice
Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA)
Latino Coalition for a Healthy California (LCHC)
Mexican American Legal Defense and Education Fund (MALDEF)

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